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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,487	03/04/2002	Peter Schimitzek	2012	6831
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Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743			EXAMINER KRISCIUNAS, LINDA MARY	
			ART UNIT 3623	PAPER NUMBER

DATE MAILED: 05/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,487

Applicant(s)

SCHIMITZEK, PETER

Examiner

Linda Krisciunas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/4/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a Non-Final Office Action in response to the application filed March 4, 2002. Claims 1-15 are pending.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Receipt is acknowledged of papers filed under 35 U.S.C. 119 (a)-(d) based on an application filed in Germany on September 4, 1999. Applicant has not complied with the requirements of 37 CFR 1.63(c), since the oath, declaration or application data sheet does not acknowledge the filing of any foreign application. A new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date.

Claim Objections

3. Claim 5 is objected to because of the following informalities: Line 4 lists "though information technology". The Examiner has interpreted this as a typo and that it should read "through information technology". Appropriate correction is required.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-15 merely recite data structures

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consisting of a computer system, a control system, a goods management process and an integration system. The claimed structures are not embodied on a readable medium, and thus are not tangible. Additionally, they do not produce a repeatable real-world result, and thus fail the concrete and useful portion of the 35 USC 101 requirement.

Under the statutory requirement of 35 U.S.C. 101, a claimed invention must produce a useful, concrete and tangible result. For a claim to be useful, it must yield a result that is specific, substantial, and credible (MPEP 2107). A concrete result is one that is substantially repeatable, ie, it produces substantially the same result over and over again. In order to be tangible, a claimed invention must set forth a practical application that generates a real-world result, ie, the claim must be more than a mere abstraction. Additionally, a claim may not preempt abstract ideas, laws of nature or natural phenomena nor may a claim preempt every substantial practical application of an abstract idea, law of nature or natural phenomena because it would in practical effect be a patent on the judicial exceptions themselves. Thus, claims 1-15 are not statutory.

6. Claims 1-15 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific or substantial asserted utility or a well established utility.

The invention does not provide a specific or substantial utility because it does not yield a specific, credible result.

Claims 1-15 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific or substantial asserted

utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The subject matter of claim 1 relating to the integration system consists of vague terminology, for example, the “basic integration system which is *associated* with the computer system”. Associated is not definitive with respect to the relation of the two components. Additionally, “connected by means of a *connection*” where being connected by a connection is not definitive as to how they are connected, “safeguards the *association* of a base element”, line 15: “have access to real-time data” does not explain how it accesses the data, “the specific integration element is operationally connected to the business”, and “this controls the goods production process/goods management process” where it is not clear how it is controlling the goods, these are some examples of phrases which are not described sufficiently nor claimed sufficiently.

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9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim language of claim 1 does not provide a definitive description of the invention. For example, the use of the terms “intelligent control system”, “basic integration system”, “information technology-based manner” and “special interface” are vague and indefinite.

11. Claims 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of “.....” is not definitive as it leaves the sentence open-ended. A definite list of items should be used that is consistent with what is disclosed in the Specification..

12. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation “the addresses”, “the articles”, “the conditions” and “the processes” in Claim 9. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Beasley et al (US 4,827,423).

As per claim 1, Beasley teaches a computer system (column 1, lines 40-41: “computer integrated manufacturing facility”), a control system (column 1, line 50: “process control data” which implies that there is a control system. See Figure 2C item 158 “control system”), a goods production process/goods management process (), and an integration system which allows access to real-time data regarding the production of goods/goods management process (column 3, lines 41-42, where a production schedule constitutes a system for managing the production of goods where the system maintains real-time inventories and up-to-date status by item as indicated in column 39, lines 3-9.), where the data is held in data records (the data consists of inventory records as indicated in column 39, line 24.) and the performance potential of the business is identified by factors such as manpower (column 29, line 20), production facilities, materials and capacity, where these factors are selected to provide a positive influence over the goods production/process management (column 31, lines 49-67 and column 32, lines 1-5, where the system takes into account the facilities or plants and their capacity as well as people and machines. It also tracks material requirements as indicated in column 32, lines 14-18.).

As per claim 2, Beasley teaches the electronic data system is incorporated company wide and is networked by data connections (column 52, lines 40-56 where the system contains a Network Sender/Receiver communication system.).

As per claim 3, Beasley teaches user interfaces that allow communication and interaction and an on-line, real-time detection of parameters which takes place by the data collection units and are organized and stored in internal and external databases and are used with business models to affect the results of the goods production/management process (As noted in column 53, lines 43-50, the system allows the user to interface with the receiving system and obtain an Inventory Update of the material in question. This is equivalent to real-time detection as it performs an identical function in substantially the same manner with substantially the same results. The information with respect to inventory is stored in a database as indicated in column 53, line 26.).

As per claim 4, Beasley teaches one of the additional factors is an integration (As best determined by the Specification, the Examiner understands that the integration is a mere compilation of the various data of the factors. Beasley teaches this concept in column 10, lines 59-67 and column 11, line 1-12.).

As per claim 5, Beasley teaches managerial and individual businesses/business units are represented in an information technology-based manner as base elements by means of their logical model of integration (column 11, lines 13-23, where there is a system for the plant manager to perform various functions including a plant inventory

control system and plant production data whereby the data is analyzed according to plant and corporate needs and each plant would represent a business/business unit.).

As per claims 6-7, Beasley teaches company-wide, base elements are limited to a minimal number of elements to assure a non-redundant graphic representation of the managerial parameters of the integration of the goods production/goods management process in the business units (column 9, lines 21-30 where the redundant node computers control the receiving and blending of information.).

As per claim 8, Beasley teaches the interfaces are uniformly constituted by a system-independent shell structure (column 40, lines 28-36, where the user interface constitutes a shell structure).

As per claim 9, Beasley teaches the base element contains: the addresses give a uniform company-wide graphic representation of all internal and external, legal and natural persons and entities, the articles do so for all material assets, the conditions do so for all parameters affecting price determination, and the processes do so for all possible connections among and within the elements (column 10, lines 26-39: "As seen in FIG. 3, level IV includes a scheduling system 200 which interfaces with a materials requirement planning system 202. The scheduling system 200 together with the material requirements planning system 202 are designed to manage the manufacturing capacities, machines, people and material to meet the marketing and inventory objectives as stated in the business and strategic plans of the company. The result of this effort at level IV is a master schedule, a portion of which is passed down to a plant scheduling system 203 at the plant level. The master schedule includes a long range

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portion which matches machine capacity to brand requirement. The long range portion covers a period of approximately 2 to 10 years." Where the addresses represent the market participants which is equivalent to the marketing and business plans of the company since they are represented by people or participants. The articles are the facilities and materials which are equivalent to the machines, people and material. The conditions represent the quantities of goods which is equivalent to the manufacturing capacity and the processes represent the combination of the factors which equivalent to the master schedule which controls all the elements and their interactions. These are deemed equivalent as they perform an identical function in substantially the same manner with substantially the same results.).

As per claim 13, Beasley teaches the element processes include managerial interactions within the addresses, within the articles, within the conditions, between addresses and articles, between addresses and conditions, and between articles and conditions (See Figure 11 where it shows the interactions between the people, facilities/material, and production quantities. See also column 26, lines 62-68 and column 27, lines 1-36 where the Resource Capacity Planning (500) represents the requirements of the corporation which is equivalent to managerial interactions since it performs an identical function in substantially the same manner with substantially the same results. Figure 11 shows the interactions between the addresses, articles and conditions.).

As per claim 15, Beasley teaches a control message manager as a separate layer encompasses the presentation/interaction, the application, the data management

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system, the high-level application interface and the interfaces I-VII, and this control message manager receives messages from the various modules and interfaces and forwards each of them to the addressed module, which processes the message (column 52, lines 39-46, where the Network Sender/Receiver communication software sends messages through the network to the appropriate work center where the schedule, for instance, is indicated for forwarding to another group.).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 10-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beasley et al (US 4,827,423).

As per claim 10, Beasley teaches the addresses element uniformly includes: representatives, suppliers, clients, divisions, personnel, branches, headquarters (As indicated in claim 9, the addresses are the market participants which are equivalent to the marketing and business people that generate the plans as indicated in column 10, lines 26-39.). Official notice is taken that it is old and well known that the marketing and business people at a company include, but is not limited to, the various divisions, branches and headquarters. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the operations management system

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of Beasley with the specific types of business people that would be involved in an operations environment to provide a listing of included types of business people.

As per claim 11, Beasley teaches the articles include: materials, operating materials, auxiliary materials, merchandise, retail articles, intermediate goods, equipment (As indicated in claim 9, the articles are the facilities and materials which are equivalent to the machines, people and material as indicated in column 10, lines 26-39). Official notice is taken that it is old and well known that types of materials and facilities include retail articles, merchandise and operating materials. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the operations management system of Beasley with the specific types of facilities and materials that would be involved in an operations environment to provide a listing of included types of materials and facilities.

As per claim 12, Beasley teaches the conditions include: prices, discounts, surcharges, calculatory costs, rebates (As indicated in claim 9, the conditions represent the quantities of goods which is equivalent to the manufacturing capacity as indicated in column 10, lines 26-39). Official notice is taken that it is old and well known that conditions include price, discount, charges, rebates etc. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the operations management system of Beasley with the specific types of conditions that would be involved in an operations environment to provide a listing of included types of conditions.

As per claim 14, Beasley teaches connection between a first and second interface layer, the individual modules of the shell structure of the interfaces each have two interface layer-specific components, which are connected via an internal interface layer that is uniform company-wide, as a result only one component has to be adapted. Official notice is taken that it is old and well known to have a modular interface that does not impact the rest of the system. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the operations management system of Beasley with the modular interface to provide a means for easily adapting the interface throughout the company on various computer systems.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following art also teaches about operations management software/processes: Fukuda et al (US 6,546,300), Kazami et al (US 6,321,204), Powell (US 6,195,590), Kennedy et al (US 6,167,380), Myrick et al (US 2004/0143470), Bowman-Amuah (US 6,662,357), Saias et al (US 2003/0014379), "The use of industrial software to create experiential learning activities in operations management courses" by Laforge et al, Production & Operations Management Society, Fall 1998; "The relevance of computer supported cooperative work for advance manufacturing" by Schael, AI & Society, vol 12, 1998; and "Basic structures, types, and user conditions for computer integrated systems of management, planning and control of automated production" by Neumann, German Journal Paper, 1989.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Krisciunas whose telephone number is 571-272-6931. The examiner can normally be reached on Monday through Friday, 6:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LMK

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May 5, 2006


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